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Attorney for Plaintiff
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;
Plaintiff,
vs.
HAWAIIAN EXPRESS SERVICE,
INC., a California corporation; et al.
Defendants.

) Civ. No. CV03 00385 SOM-LEK
) (Copyright)
)
) **PLAINTIFF WAYNE BERRY'S
MOTION TO ALTER OR AMEND
AMENDED SECOND AMENDED
JUDGMENT ENTERED ON
MARCH 16, 2006 AND TO DELAY
TIME FOR FILING AN APPEAL
PENDING RESOLUTION OF
MOTION FOR ATTORNEYS'
FEES AND FULL COSTS**
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)
)
) **Non-Hearing**
) **Judge: Susan Oki Mollway**
) **Judgement Entered: March 9, 2006**
)

**PLAINTIFF WAYNE BERRY'S MOTION TO ALTER
OR AMEND SECOND AMENDED JUDGMENT ENTERED ON MARCH
16, 2006 AND TO DELAY TIME FOR FILING AN APPEAL
PENDING RESOLUTION OF MOTION FOR
ATTORNEYS' FEES AND FULL COSTS**

COMES NOW, Plaintiff Wayne Berry, by and through his undersigned counsel, hereby respectfully files a motion to alter or amend the Second Amended Judgment entered on March 16, 2006. In addition, Plaintiff requests that the Court order that the time for filing an appeal will not commence until the Court has disposed of the Plaintiff's Motion for Attorneys' Fees and Full Costs filed on March 15, 2006.

This Motion is brought on the grounds that the Second Amended Judgment in a civil case failed to specifically provide for a final judgement of infringement against certain additional Employee Defendants as follows: Justin Fukumoto, Jacqueline Rio, Alfredda Waiolama, Melvin Ponce and Sonia Purdy. As set forth in the Declaration of Timothy J. Hogan, the Court entered summary judgment against these Defendants on June 27, 2005 and Mr. Berry is entitled to have a final judgment entered against them to establish that they have been adjudicated infringers. In addition to the right to have the effect of finality and judgment as to these infringers, this is particularly necessary because the Court Clerk of the District Court for the District of Hawaii is required, pursuant to 17 U.S.C. § 508, to

report the findings of infringement cases to the Register of Copyrights to become part of the official records of the United States of America. Consistent with that statutory obligation, these infringers must be recorded as such and Mr. Berry has the right to have a final judgment against them.

Finally, Mr. Berry further respectfully requests that the Court order that the time for filing of an appeal shall not begin to run until the Court has disposed of the Motion for Attorneys' Fees and Full Costs filed on March 15, 2006 or the instant motion, which ever is later.

This Motion is brought pursuant to FRAP 4(a)(4), Fed. R. Civ. P. 58(c)(1) & (2) 59(e), L.R., 54.3 and is supported by the attached Memorandum and Declaration of Counsel, all of which are incorporated by this reference.

DATED: Honolulu, Hawai'i, March 21, 2006.

/s/ Timothy J. Hogan
TIMOTHY J. HOGAN
Attorney for Plaintiff
WAYNE BERRY